

YADKIN COUNTY BOARD OF COMMISSIONERS
REGULAR MINUTES
Monday, April 19, 2010

The Yadkin County Board of Commissioners met in Regular Session on Monday, April 19, 2010, in the Yadkin County Human Services Building (Commissioners' Meeting Room), 217 East Willow Street, Yadkinville, North Carolina.

Present were:

Chairman Chad Wagoner
Vice Chairman Kevin Austin
Commissioner Tommy Garner
Commissioner David Moxley
Commissioner Brady Wooten

Staff present: County Attorney, James Graham; Interim Manager, Jim Haynes; Deputy Manager, Aaron Church; and Clerk to the Board, Gina Brown.

CALL TO ORDER by Chairman Wagoner at 7:01pm.

INVOCATION led by James Graham.

PLEDGE OF ALLEGIANCE led by Johnathan Cole and Michael Dewitt, 6th grade students at the Yadkin Success Academy. The students were accompanied by their teachers Mrs. Russell and Mrs. Potter and the school principal, Mrs. Berry. Michael was also accompanied by his father. Michael reported that he is learning to manage his anger more effectively. Johnathan reported that the Success Academy is teaching him to stay on task and more focused.

Vice Chairman Austin stated that he had been in the same position as these students in his youth. Vice Chairman Austin encouraged Mr. Cole and Mr. Dewitt to persevere, and one day, they may be County Commissioners as well.

ADJUSTMENTS TO/ADOPTION OF THE AGENDA

Commissioner Wooten made a motion to approve the agenda as presented.
Commissioner Moxley second.

Vote: 5/0

PUBLIC COMMENTS

Public Comments portion of the meeting opened at 7:06pm. There were no speakers under this heading. The Public Comments portion of the meeting closed at 7:07pm.

APPROVAL OF MINUTES

Vice Chairman Austin noted the following adjustments:

Pg. 2, 2nd paragraph, last sentence – should read “*potential* personal liability.”

Pg. 3, 3rd paragraph, 1st sentence – change “Interim” to “Deputy.”

Commissioner Garner made a motion to approve the minutes of March 29, 2010 Work Session/Retreat; minutes of March 29, 2010 Joint Session with Board of Education; minutes of April 1, 2010 Recessed Meeting regarding the hospital; and minutes of April 5, 2010 Regular Session with noted adjustments. Vice Chairman Austin second.

Vote: 5/0

PUBLIC HEARING

(1) Christopher Ong, Director of Planning and Development, appeared before the Board to present information regarding administrative text amendments to Articles 6, 11, and 21 of the Yadkin County Zoning Ordinance. Mr. Ong presented the proposed changes as follows:

Article 6 – prohibits the use of recreational vehicles as a dwelling type

Article 11 – adds retail uses, not otherwise listed, to the Table of Uses

Article 21 – defines retail uses, not otherwise listed, in Definitions

Upon further reflection, Mr. Ong suggested that the change to Article 21 be dismissed as retail store is defined within the ordinance. Vice Chairman Austin pointed out that retail ‘store’ would not adequately define a retail service. Mr. Ong agreed with Vice Chairman Austin’s assessment and stated that the goal is to simplify.

The Public Hearing opened at 7:15pm. There were no speakers for this issue. The Public Hearing closed at 7:15pm.

Commissioner Wooten asked Attorney Graham if he had reviewed the proposed amendments to which Attorney Graham responded yes.

Vice Chairman Austin made a motion to approve the proposed text amendments for Article 6, Article 11, and Article 21, in which ‘retail uses’ will replace ‘retail stores’, and adding the phrase “not classified elsewhere” in the definition. Commissioner Moxley second.

Vote: 5/0

BOARD APPOINTMENTS

(1) The Board reviewed the appointment of Steve Brown as a full voting member of the Planning Board.

Commissioner Garner made a motion to approve the appointment of Steve Brown to the Planning Board for a 3 year term beginning retroactively on April 1, 2010 and ending March 31, 2013. Commissioner Moxley second.

Vote: 5/0

Chairman Wagoner asked the Board to consider a replacement for Steve Brown as an alternate.

(2) Regarding the recent appointments to the Land Use Plan Committee, Chairman Wagoner, as well as Vice Chairman Austin, had received a letter from “The Matthews Family.” Chairman Wagoner noted that the letter had no return address and did not specify which “Matthews” family. Without a return address or specific name, Chairman Wagoner is unable to respond directly. Though Chairman Wagoner does not usually address this type of communication, Chairman Wagoner did read this letter aloud...

“Dear Mr. Wagoner, We are writing to you to express our concerns about the appointments made to the Land Use Committee. We will appreciate the Board of Commissioners selecting someone else to represent the Forbush district because Tim Doub lives in the East Bend district. Thank you, the Matthews Family.”

After reviewing records in the Board of Elections, Chairman Wagoner determined that Tim Doub is indeed registered in the Forbush district. Chairman Wagoner asked that citizens have the respect and courtesy to address and sign any correspondence to the manager or members of the Board.

CONSENT AGENDA

Chairman Wagoner asked the Board if there was an item on the consent agenda that should be addressed individually. Vice Chairman Austin stated that he would like to have the input of Attorney Graham on these items. Further, Vice Chairman Austin asked that items on a consent agenda contain a certification from the Finance Director and a legal opinion from the County Attorney. Without these, the Board agreed to review today's items individually.

1. Recycling and Disposal Contract:

Attorney Graham has reviewed the agreement for tire recycling and has no concerns. Commissioner Wooten stated that the agreement remains the same with just slight cost increases.

Vice Chairman Austin made a motion to approve the Recycling and Disposal Contract with US Tire and Recycling. Commissioner Wooten second.

Vote: 5/0

2. Insurance Consultant Agreement:

Deputy Manager Church reported that this agreement is similar to the agreement with CMS Insurance. WN Ireland will act as a consultant for a fee as opposed to commission. The consultant will perform a complete inventory of County property and provide an assessment of needs. Quarterly reports will be made to the Board. Deputy Manager Church anticipates that there will be much work in the beginning stages of this agreement. Upon review, County Attorney Graham suggested that the following additional language be added to the term: "This agreement may be terminated or forfeited with a 90 day notice of either party for any reason." Deputy Manager Church stated that this agreement will be funded in the upcoming budget.

Deputy Manager Church noted that the Workers Compensation coverage will remain with Senn Dunn as the County has experienced a 40% savings with this firm.

Commissioner Wooten made a motion to approve the Insurance Consultant Agreement with WN Ireland Insurance adding the phrase “This agreement may be terminated or forfeited with a 90 day notice of either party for any reason” on page 2 of the agreement under ‘Term’. Commissioner Garner second.

Commissioner Garner asked if the \$18,000 expense was worth the service the County would be receiving. Deputy Manager Church feels that the County will benefit from the agreement. Chairman Wagoner added that the County may not be able to measure the benefit for a 2 to 3 year period.

Vote: 5/0

3. Budget Amendment – RA JAG Grant:

Date: April 9, 2010

General Fund

Dept: Sheriff

Description	Account Number	Original Budget	Increase/ (Decrease)	Amended Budget
2010 BJA RA JAG GRANT	1044310-44142	-0-	49,822.00	49,822.00
VEHICLES	1054310-56100	92,700.00	49,822.00	142,522.00

To record the 2010 Bureau of Justice Assistance RA JAG Grant (#2010-SB-B9-0008).

Major Danny Widener of the Sheriff’s Office presented the noted budget amendment. The Sheriff’s Office received a \$49,822 grant for the purchase of vehicles. It was noted that this is twice the amount of last year’s grant.

Vice Chairman Austin made a motion to approve the budget amendment for the RA JAG Grant. Commissioner Garner second.

Vote: 5/0

BOARD ACTION

(1) Special Counsel, John Crill, of Parker, Poe, Adams and Bernstein appeared before the Board to review the resolution regarding the sale of Hoots Hospital. Mr. Crill reported that the agreement is fair and consistent and represents all of the Board’s requirements for sale. The complete document will include a lease agreement, asset agreement, and guaranty agreement. Mr. Crill pointed out that the term ‘asset’ does not include the real estate. Vice Chairman Austin asked for additional information regarding the assets. Mr. Crill reported that assets are typically defined as objects that can be removed without damage.

Further, Mr. Crill noted that a list of inventory will be included in the final agreement. As previously agreed, the purchase price will be net of liabilities to Baptist Hospital and Diamond Health Care. The Diamond Healthcare debt will be paid through the closing process as will attorney fees and expenses.

Vice Chairman Austin asked if a WARN notice is required. Mr. Crill responded that a WARN notice is not required as the hospital employees will remain in place with current accruals and benefits. There will be no losses for the employees.

Mr. Crill reported that the proposed lease amount is \$1 per square foot. An exact square footage of the property has not yet been determined. The lessee will maintain all liability insurance and will be responsible for routine maintenance and repair. Commissioner Wooten asked if a description of the property would be included in the lease agreement to which Mr. Crill responded yes.

Commissioner Wooten questioned the recent loan of \$400,000 to the purchaser. Mr. Crill stated that the purchaser acknowledges and assumes that debt.

Vice Chairman Austin pointed out that the agreement proposes that the Board of Commissioners will appoint 3 members to the hospital's advisory committee. Vice Chairman Austin prefers not to be involved in the politics of a private entity. Chairman Wagoner agreed. Jeff Judd, representing HMC, commented that the committee will have an advisory role only and that the Board of Commissioners is better acquainted with the community and could make appropriate recommendations. After brief discussion, the Board agreed to have this proposal remain in the agreement as stated.

Commissioner Garner made a motion to approve the RESOLUTION APPROVING THE LEASE AND SALE OF HOOTS MEMORIAL HOSPITAL TO CAH ACQUISITION COMPANY 10 LLC, A WHOLLY OWNED SUBSIDIARY OF HMC/CAH CONSOLIDATED, INC., AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BY AND AMONG THE COUNTY OF YADKIN, NORTH CAROLINA AND HOOTS MEMORIAL HOSPITAL, INC., AS SELLER, AND CAH ACQUISITION COMPANY 10 LLC, AS PURCHASER. Vice Chairman Austin second.

Vote: 5/0

Chairman Wagoner called for a recess at 8:15pm. Meeting resumed at 8:35pm.

CALENDAR NOTES

The Board reviewed the calendar notes. It was determined that Chairman Wagoner, Vice Chairman Austin, and Commissioner Moxley would be attending the County Assembly Day in Raleigh on May 19.

MANAGER REPORTS/COMMENTS

Interim Manager Haynes reported the following:

1. The motocross track mentioned at the last meeting was in existence prior to the Yadkin County Zoning Ordinance. Essentially, the track was “grandfathered” and the Board has no authority in this matter.
2. Jason Walker, Soil and Water Director, has reported that the 5D Dam is substantially complete. Clean-up and slight grading is still in process. The contractor has begun moving equipment off-site. Mr. Walker is scheduling visits to the dam for anyone interested.
3. A bill was introduced in the North Carolina Legislature on April 13 that would require collective bargaining for public safety employees. There is a movement to have each county contact their legislators and ask them to vote ‘no’ on this proposal. Yadkin County may be approached with a request.
4. The Interim Manager and the Deputy Manager continue to meet with department heads regarding the upcoming budget. For the most part, department heads have been very cooperative and have offered suggestions. Management anticipates the presentation of the budget by mid-May. There was brief discussion of the public hearing required for the proposed budget. Typically, the budget hearing is held at 7:00pm on the first Monday of June.

COMMISSIONER COMMENTS

Vice Chairman Austin had these additional comments:

- (1) Vice Chairman Austin had been visited by a constituent. This citizen pointed out that public notices for Yadkin County were printed in different areas of the local paper and asked if future public notices could be combined into a single ad to make it more reader-friendly. In addition, Vice Chairman Austin asked if text amendment changes to the Zoning Ordinance could be placed on the county’s website.

Commissioner Garner had these additional comments:

Commissioner Garner noted the recent report from Deputy Manager Church regarding a review of Burke County Schools by a financial consulting group. Commissioner Garner feels that Yadkin County should consider this option. In addition, one county has recently established school funding at a set formula per student population. This, too, should be considered in Yadkin County.

Chairman Wagoner noted that the financial consultant may easily determine that Yadkin County is not supplying adequate funding to the schools. Deputy Manager Church stated that is certainly a risk to be taken. Deputy Manager Church reported that the financial consultant used in Burke County was very impartial and very thorough and had identified a savings of over \$22 million in a 5 year period.

Commissioner Moxley had these additional comments:

Commissioner Moxley expressed his pleasure at tonight's resolution and the sale of Hoots Hospital. A new hospital, to be constructed within the next 4 years, will be a great asset to Yadkin County.

Commissioner Wooten had these additional comments:

1. Commissioner Wooten agreed with Commissioner Moxley on the sale of the hospital and further remarked that a new hospital will be a step forward for the health care of Yadkin County citizens.
2. Commissioner Wooten presented a contract control form used in Union County. Commissioner Wooten suggested that Yadkin County use this or a similar format for contracts placed on the consent agenda. A contract or agreement, generated by any department, would be reviewed by the County Attorney, the Risk Management firm, the IT Department, the Finance Director, and the County Manager, prior to being placed on the agenda.

3. Commissioner Wooten provided the following information from a recent PART meeting...

- Ridership had increased 19.6% from the previous month and 18.2% over the same month in 2009.
- The ridership curve is proportional to fuel prices.
- PART operates in 10 counties in the Piedmont region.
- PART operates on State and Federal grants. Local funds of 10% are provided by a rental tax.
- PART had a \$10 million fund balance at the beginning of its operation. That fund balance has been greatly reduced and new funding sources must be identified. It has been estimated that there will be no fund balance by 2012.
- It has been proposed that each County hold a referendum to impose an \$8 vehicle registration fee.

Vice Chairman Austin asked if this registration fee would be applied even in counties where the referendum failed. Commissioner Wooten stated that is a question yet to be answered. Chairman Wagoner asked if this fee would be applied each year as a vehicle is registered. Commissioner Wooten stated that this fee would be in addition to the cost of renewing a registration and would essentially be a tax on the citizens. Chairman Wagoner also questioned the draining fund balance when ridership continues to increase. Commissioner Wooten responded that the fairs must remain at a reasonable rate in order to be of any benefit to the rider.

4. Commissioner Wooten had recently spoken with the owner of a new garden shop in Yadkin County. The owner was somewhat surprised that no County official had visited his site to welcome him or congratulate him. Both Commissioner Wooten and Vice Chairman Austin believe this should be brought to the attention of the Chamber of Commerce. Commissioner Moxley had spoken with the same individual. It was also pointed out that the business owner feels that there is no clear process when starting a new business and feels the process should be more streamlined or a guide for business owners should be made available. Chairman Wagoner announced that the Economic Development Council has addressed this issue and the Chamber of Commerce does indeed have a document that clearly defines the process for small business owners. Vice Chairman Austin reported that there is a project underway at Starmount High School to review and simplify the process for new businesses. Once complete, this should be added to the County website. Vice Chairman Austin further reported that the Chamber of Commerce Board of Directors has recently begun visiting various businesses of the County.

5. Considering the financial issues facing the upcoming budget, Commissioner Wooten suggested that Janice Burke return for a presentation to the Board. Commissioner Wooten would like Ms. Burke to explain how the County reached this predicament and, more specifically, explain why Yadkin County has not reached the 5% growth as she projected. Vice Chairman Austin commented that there would be nothing to gain by Ms. Burke's visit especially if a cost is involved. Further, Vice Chairman Austin challenged Ms. Burke's figures because they were based on overly aggressive long-term projections but data is inconclusive at this time. Commissioner Wooten commented that Ms. Burke's figures were not well projected based on historical data.

Chairman Wagoner had these additional comments:

Chairman Wagoner noted that 2 very good things had been announced during today's meeting; the first being the completion of the 5D reservoir. Chairman Wagoner quoted Leneul Chamberlain from the day of the groundbreaking ceremony...

"When the reservoir fills up, it will be a pool of water. But 50 years from now, it will be a pool of gold."

The second item today was the selling of the hospital. Chairman Wagoner stated that this is a great step forward for the health and welfare of Yadkin County.

New middle schools, new science wings at the high schools, and a new hospital will indicate viability to outside businesses. There are those citizens that continue to complain that their taxes are too high. Those taxes produce good things for Yadkin County and secure the future of industry. With additional industry, the homeowner's tax burden will be relieved.

Attorney Graham had no additional comments at this time.

***Special Note:** Chairman Wagoner announced that he would like to give each candidate for County Commissioner a few moments to speak at the next regular meeting of the Board. Clerk Brown will contact those candidates and include this on the next agenda.

Commissioner Wooten made a motion to enter a closed session per NCGS 143.318-11(a)(6) to discuss a personnel matter. Commissioner Moxley second. Vote: 5/0

Commissioner Wooten made a motion to end the closed session. Vice Chairman Austin second.

Vote: 5/0

Commissioner Wooten made a motion to adjourn. Chairman Wagoner second.

Vote: 5/0

Meeting adjourned at 9:57pm.

Prepared by Clerk to the Board

Date Approved by the Yadkin County
Board of Commissioners

*** I certify that this is a draft document
not yet approved by the Board of Commissioners.

Gina H. Brown
Clerk to the Board of Commissioners

Date